

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 23-cv-22642-BLOOM/Otazo-Reyes

JACK DOHENY COMPANIES, INC.,

Plaintiff,

v.

DRAINAGE PARTNERS, LLC, et al.,

Defendants.

/

ORDER DENYING MOTION TO APPOINT COUNSEL

THIS CAUSE is before the Court upon Defendant Johny Joseph's ("Joseph") letter to the clerk of court, ECF No. [20], which the Court construes as a Motion to Appoint Counsel. For the reasons explained below, the motion is denied.

"A civil litigant . . . has no absolute constitutional right to the appointment of counsel." *Poole v. Lambert*, 819 F.2d 1025, 1028 (11th Cir. 1987) (citation omitted). Rather, appointment of counsel is only justified by "exceptional circumstances, such as where the facts and legal issues are so novel or complex as to require the assistance of a trained practitioner." *Id.* "[W]hen determining whether "exceptional circumstances" exist the relevant factors include: (1) the type and complexity of the case, (2) whether the indigent is capable of adequately presenting his case, (3) whether the indigent is in a position to adequately investigate the case, and (4) whether the evidence will consist in large part of conflicting testimony so as to require skill in the presentation of evidence and in cross examination." *Curry v. Sec'y*, 665 F. App'x 766, 767 (11th Cir. 2016).

Joseph has indicated that he wishes to "appear before the court in order to be heard" and "cannot afford an attorney." ECF No. [20]. He has not suggested that this is a complex case, that he will be unable to present his case, that he is unable to adequately investigate his case, or that

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there will be conflicting testimony in this case. *See id.* The Complaint in this case sets forth only one claim against Joseph for Breach of Guaranty. *See* ECF No. [1]. Accordingly, the Court does not find that exceptional circumstances exist that justify the appointment of counsel.

As the Court explained in its Order Providing Instructions to *Pro Se* Litigant, Joseph may request to participate in the Volunteer Attorney Program by filing a motion for referral to that Program. ECF No. [21].

Accordingly, it is **ORDERED AND ADJUDGED** that Petitioner's Motion to Appoint Counsel, ECF No. [20], is **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, on August 30, 2023.

A handwritten signature in black ink, appearing to be 'JB' or similar, written over a horizontal line.

BETH BLOOM
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record

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PRO SE